

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Village of chama

**MOTION FOR ORDER MAKING FINAL DETERMINATION OF
PRIORITY DATES AND IRRIGATION WATER REQUIREMENTS
OF THE WATER RIGHTS OF THE JICARILLA APACHE NATION
IN THE VILLAGE OF CHAMA SUBSECTION**

The Plaintiff State of New Mexico, *ex rel.*, State Engineer (“State”) respectfully requests the Court to enter its Order making a final determination of priority dates and irrigation water requirements of the water rights of the Jicarilla Apache Nation in the Village of Chama Subsection of Section 7 (“Village of Chama Subsection”), and in support of this motion states as follows:

1. Pursuant to the May 30, 2013, *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Village of Chama Subsection of Section 7 of the Rio Chama Stream System* (Doc. No.10915), each of the individual subfile defendants in the Village of Chama Subsection have been served with the Court’s Notice and Order to Show Cause (OSC) in connection with the determination of priority dates and irrigation water requirements in the Village of Chama Subsection. *See Certificate of Service* filed June 4, 2013 (Doc. No. 10918). The OSC required every subfile defendant to file an objection with the Court if they disagreed with the

State's proposed determination of priority dates and irrigation water requirements for their own water rights, or the proposed priority dates and irrigation water requirements of the irrigation water rights of any other defendants in the Village of Chama Subsection.

2. The OSC has been published as required in the Rio Grande Sun once each week for 4 consecutive weeks, the first publication being on the 6th day of June 2013, and the last publication being on 27th day of June 2013. *See Proof of Publication of Notice and Order to Show Cause* filed July 1, 2013 (Doc. No. 10925).

3. Pursuant to the OSC, the deadline for the filing of an objection to the State's proposals for the determination of priority dates and irrigation water requirements in the Village of Chama Subsection was August 1, 2013.

4. Three parties filed objections to the priority dates or the irrigation water requirements proposed by the State. *See Objections by MB Ditch* (Doc. Nos. 10932, 10957; *Asociación de Acéquias Norteñas de Rio Arriba* (Doc. No. 10936); *Chama Valley Independent School District No. 19* (Doc. No. 10938). These objections concern the water rights of the parties making those objections, or the water rights of the individual members of the acequias or community ditches described in those objections.

5. Counsel for the Jicarilla Apache Nation ("the Nation") has contacted the State to request the entry of a final order that would recognize the priority dates and irrigation water requirements of the Nation's water rights as proposed by the State in the OSC. The OSC required all claimants who disagree with the State's proposed determination of priority dates and irrigation water requirements for water rights on lands irrigated by the Nation under a permit for the transfer of water rights approved by the State Engineer, or for water rights on lands irrigated from a pre-basin

groundwater well located on the Jicarilla Apache Reservation in the Village of Chama Subsection, to file an objection to the State's proposals by August 1, 2013. No objections to the State's proposals with respect to the Nation's water rights in the Village of Chama Subsection were filed with the Court.

6. While the objections of the three parties noted above in paragraph 4 have yet to be resolved, the State requests the entry of an order that would finalize the determination of the priorities and irrigation water requirements of Nation's water rights in the Village of Chama Subsection at this point in time. The irrigation water rights of the Nation comprise a significant portion of the water rights in the Village of Chama Subsection, and the final resolution of the elements of the Nation's irrigation water rights in this subsection would represent significant incremental progress in these proceedings.

7. The Jicarilla Apache Nation supports the granting of this motion.

8. Counsel for the United States of America, Bradley S. Bridgewater, states that he does not oppose the granting of this motion.

WHEREFORE the Plaintiff State of New Mexico requests that the Court enter its Order making a final determination of the priorities and irrigation water requirements of the water rights of the Jicarilla Apache Nation in the Village of Chama Subsection of Section 7 of the Rio Chama Stream System. A proposed Order granting this motion is attached hereto as Exhibit 1.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of December, 2013, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Ed Newville
Edward G. Newville